

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Aaron Gibbings	Team: Squad #8	CCRB Case #: 202003576	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 05/17/2020 12:09 AM	Location of Incident: Sutter Avenue between Georgia Avenue and Sheffield Avenue	Precinct: 75	18 Mo. SOL 11/17/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/17/2020 12:32 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/26/2020 9:44 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Waite	09649	961434	067 DET
2. POM John Sikora	22498	953735	075 DET

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Waite	Abuse: Police Officer Anthony Waite questioned § 87(2)(b)	
B.POM Anthony Waite	Abuse: Police Officer Anthony Waite stopped § 87(2)(b)	
C.POM John Sikora	Force: Police Officer John Sikora used physical force against § 87(2)(b)	
D.POM Anthony Waite	Abuse: Police Officer Anthony Waite searched § 87(2)(b)	
E.POM Anthony Waite	Abuse: Police Officer Anthony Waite damaged § 87(2)(b) property.	
F.POM Anthony Waite	Abuse: Police Officer Anthony Waite frisked § 87(2)(b)	
G.POM John Sikora	Abuse: Police Officer John Sikora failed to provide § 87(2)(b) with a business card.	
H.POM Anthony Waite	Abuse: Police Officer Anthony Waite failed to provide § 87(2)(b) with a business card.	
I.POM Anthony Waite	Abuse: Police Officer Anthony Waite refused to provide his name to § 87(2)(b)	
J.POM Anthony Waite	Abuse: Police Officer Anthony Waite refused to provide his shield number to § 87(2)(b)	
K.POM John Sikora	Abuse: Police Officer John Sikora refused to provide his name to § 87(2)(b)	
L.POM John Sikora	Abuse: Police Officer John Sikora refused to provide his shield number to § 87(2)(b)	
M.POM Anthony Waite	Untruthful Stmt.: Police Officer Anthony Waite provided a false official statement to the CCRB.	

Case Summary

On May 17, 2020, § 87(2)(b) filed this complaint with IAB generating IAB log# § 87(2)(b). On May 26, 2020, the CCRB received this complaint.

On May 17, 2020, at approximately 12:09 AM, § 87(2)(b) went to a convenience store on Sutter Avenue, between Georgia Avenue and Sheffield Avenue in Brooklyn, to buy cigarettes. § 87(2)(b) was walking home when two plain clothes officers, PO Anthony Waite of the 67th Precinct Detective Squad and PO John Sikora of the 75th Precinct Detective Squad, pulled over in an unmarked car and got out.

PO Waite asked § 87(2)(b) if he was wearing a bulletproof vest, to which § 87(2)(b) responded no, and explained that it was a biker vest (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Waite walked up to § 87(2)(b) and grabbed him (**Allegation B: Abuse of Authority**, § 87(2)(g)). PO Sikora grabbed § 87(2)(b) by his upper arms and brought § 87(2)(b) arms down (**Allegation C: Force**, § 87(2)(g)). While PO Sikora was holding § 87(2)(b), PO Waite opened § 87(2)(b) bag and stuck his hand inside (**Allegation D: Abuse of Authority**, § 87(2)(g)). While reaching into § 87(2)(b) bag, PO Waite allegedly broke up his new carton of cigarettes (**Allegation E: Abuse of Authority**, § 87(2)(g)). PO Waite then took his hand out of § 87(2)(b) bag, bent down and frisked § 87(2)(b) pant leg around his calf (**Allegation F: Abuse of Authority**, § 87(2)(g)).

After PO Waite and PO Sikora finished the stop, § 87(2)(b) requested their business cards, however neither PO Sikora nor PO Waite provided one (**Allegation G and H: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) allegedly also asked the officers for their names and shield numbers which they refused to provide (**Allegation I and J: Abuse of Authority**, § 87(2)(g)). **Allegation K and L: Abuse of Authority**, § 87(2)(g).

PO Waite made false statements on the Stop Report he prepared for this incident [BR 06] (**Allegation M: Untruthful Statements**, § 87(2)(g)).

The investigation received body-worn camera (BWC) video of this incident from both PO Waite and PO Sikora [BR01][BR02].

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Anthony Waite questioned § 87(2)(b).
Allegation (B) Abuse of Authority: Police Officer Anthony Waite stopped § 87(2)(b).
Allegation (C) Force: Police Officer John Sikora used physical force against § 87(2)(b).
Allegation (D) Abuse of Authority: Police Officer Anthony Waite searched § 87(2)(b).
Allegation (E) Abuse of Authority: Police Officer Anthony Waite damaged § 87(2)(b) property.
Allegation (F) Abuse of Authority: Police Officer Anthony Waite frisked § 87(2)(b).

In his interview, § 87(2)(b) stated that on May 17, 2020, he got out of his car to purchase cigarettes [BR03]. On his way to the store, § 87(2)(b) stated that a tan, four door sedan with two men in it slowly drove by. § 87(2)(b) went into the store and purchased cigarettes, which took about three minutes. § 87(2)(b) then left and began walking along Sutter Avenue towards his home. § 87(2)(b) was wearing a black cloth suit jacket that was closely fitted to his body. Under that jacket, § 87(2)(b) was wearing a black cloth designer biker vest that had the design of a

shark's mouth on the back, and a tee-shirt in a color he could not recall. § 87(2)(b) also had on black denim jeans that were a straight cut and not loose fitting, and had a black Louis Vuitton and Supreme bag over his shoulder that was approximately six inches wide and a foot tall. § 87(2)(b) stated that he was carrying his phone and a carton of cigarettes, both of which were in his bag.

Approximately 40 seconds after leaving the store, the tan vehicle made a U-turn on Sutter Avenue and drove over to § 87(2)(b). It then double parked next to the sidewalk and two plainclothes officers, whom the investigation has identified as PO Waite and PO Sikora, got out. As the two officers approached § 87(2)(b) he put his hands up in the air and told them that he was not doing anything and just wanted to be left alone.

PO Sikora asked § 87(2)(b) what vest he was wearing. § 87(2)(b) told the officers it was a biker vest and that he could show them. § 87(2)(b) then turned around and lifted his jacket up so they could see the design on the back of the vest. When he did this, PO Sikora grabbed his wrists and pulled his arms down behind, so they were behind his back. § 87(2)(b) stated that a pain shot through his neck and shoulders as this happened.

PO Sikora then squeezed the outside of § 87(2)(b) bag, unzipped it and then reached his hand into the bag. While PO Sikora was reaching in the bag, he broke the new carton of cigarettes that § 87(2)(b) had just purchased.

PO Waite was interviewed by the CCRB on March 08, 2021 [BR04], and again on July 19, 2021 [BR05] after additional BWC footage surfaced. PO Waite stated that he and PO Sikora were patrolling the precinct, but besides that he had no recollection of this incident or of § 87(2)(b). PO Waite stated that he believed it was against the law for civilians to wear bulletproof vests and that if he sees someone wearing one, he typically goes up to them and asks them why they are wearing it. PO Waite was shown a photo of the front and back of § 87(2)(b) biker vest he was wearing during the incident. PO Waite stated that the straps, the dark color, and the Velcro in the front of the vest made it appear like a bulletproof vest. PO Waite added that the vest appeared like the typical bulletproof vest worn by the NYPD. PO Waite stated that the only way to determine if a vest is a bulletproof vest is to feel it. PO Waite stated that generally when he approaches a civilian, he always identifies himself as an officer. PO Waite stated that he had no independent recollection as to why the officers stopped § 87(2)(b). PO Waite did not recall him or PO Sikora breaking any cigarettes.

PO Waite was played his BWC video [BR01][BR08] starting at 00:27 seconds and ending at 00:36 seconds. PO Waite could not tell where the bulge he referred to in his Stop Report was in the video. PO Waite stated he did not recall when he observed the bulge on § 87(2)(b). PO Waite stated that in the video when § 87(2)(b) stated he was wearing a biker vest and turned to show him the back of his vest, this would have made him more suspicious. PO Waite stated that it is common for perpetrators to turn their backs towards officers to hide contraband, weapons, or even to pull out a weapon. PO Waite was replayed the video from 00:36 to 00:52 seconds. PO Waite stated that it appears he is frisking the front area of § 87(2)(b) bag, but it does not appear that he is sticking his hand into it. PO Waite stated that he would have frisked § 87(2)(b) bag if he observed what appears to be a weapon in it.

PO Waite was replayed the video between 00:45 seconds and 01:13 minutes. PO Waite stated that it appears that PO Sikora frisked § 87(2)(b) back, but that he was not frisking his shoulder. PO Waite was replayed the video from 00:58 seconds to 01:02 minutes. PO Waite stated that it appeared that he frisked the outside of § 87(2)(b) leg. PO Waite stated that for him to frisk that specific area he must have seen something there that resembled a weapon. PO Waite stated that he

could not tell from the video if there was anything there that would have made him frisk the area. After watching his and PO Sikora's BWC video [BR02][BR09], PO Waite stated that it did not appear like he searched § 87(2)(b) bag, he only frisked the outside.

The investigation received the Stop Report prepared by PO Waite [BR06]. In the stop report, PO Waite indicated the factors that led to the stop were, "Concealing or Possessing a Weapon." In the narrative section where it prompts officers to describe what led to the stop, PO Waite wrote, "At T/P/O subject was observed wearing what appeared to be a ballistic vest." PO Waite further indicated that § 87(2)(b) was frisked, but not searched. PO Waite also indicated that the reason for the frisk was that § 87(2)(b) was suspected of having a weapon. In the narrative section where officers are asked to describe the circumstances that led specifically to the frisk/search of the subject, PO Waite wrote, "Upon approaching subject reporting officer observed a heavy bulge with the same consistency as a firearm. Subject was frisked no weapons recovered." The Stop Report also notes that a business card was offered to § 87(2)(b).

In his interview with the CCRB on May 13, 2021 [BR07], PO Sikora stated that he and PO Waite were on patrol when they observed § 87(2)(b) wearing a bulletproof vest. PO Sikora stated that typically if he sees someone wearing a bulletproof vest, he will approach them to ask them about why they are wearing it. PO Sikora was shown a photo of § 87(2)(b) vest, and he stated that the shape, color, and bulkiness of the vest made it appear as a bulletproof vest. PO Sikora could not recall what he and PO Waite did and said when they approached § 87(2)(b) but stated that initially they only approached to inquire about his vest. PO Sikora stated that whenever he approaches a civilian, he always identifies himself as an officer and states his name. PO Sikora stated it is reasonable to ask someone why they are wearing a bulletproof vest. When the officers approached § 87(2)(b) he was irate and yelling. PO Sikora did not remember if he saw any bulges on § 87(2)(b) person. PO Sikora did not remember if it was ever determined if § 87(2)(b) vest was a bulletproof vest. PO Sikora did not recall him or PO Waite breaking any cigarettes.

PO Sikora was shown his first BWC video from the beginning until 00:31 minutes [BR02][BR09]. PO Sikora was asked if he and PO Waite were approaching § 87(2)(b) only to speak to him, why PO Waite walked up to § 87(2)(b) and immediately grabbed his bag. PO Sikora stated that it appears that § 87(2)(b) was reaching around on his body, so PO Waite might have been grabbing his bag to stop him from grabbing something. PO Sikora stated that if he was going to speak to someone and saw them reaching into a pocket, he can stop them from reaching into that pocket for his own safety and frisk them to see what was in the pocket. PO Sikora's video was continued to 00:43 minutes. PO Sikora stated that in the video he is not frisking § 87(2)(b) shoulder or back, and that he is trying to hold his arms still to stop him from lifting them up and potentially harming the officers. PO Sikora's video was continued to 00:59 seconds. PO Sikora stated that § 87(2)(b) was waving his arms around, so he grabbed his arms and held them down to prevent § 87(2)(b) from raising them and potentially harming one of the officers. Furthermore, PO Sikora stated that § 87(2)(b) kept reaching around his persons and there was the potential he would pull out a weapon.

PO Waite's BWC video does not capture sound until after 00:30 minutes at which point PO Waite has already begun approaching § 87(2)(b) [BR01][BR08]. At 00:30 minutes, § 87(2)(b) can be heard telling the officers he lives nearby. PO Waite approaches within a foot of § 87(2)(b) and asks him if he is wearing a bulletproof vest. § 87(2)(b) tells PO Waite, "No it's a biker vest." § 87(2)(b) turns and lifts up the back of his jacket to reveal the back of the vest underneath. At 00:36 minutes PO Waite grabs § 87(2)(b) forearm and tells him to stop moving around, to which § 87(2)(b) responds that he is showing him that it is a biker vest. At 00:38 minutes the video appears to show PO Waite pressing on the outside of § 87(2)(b) bag. § 87(2)(b) bag appears to be

flimsy and does not have a bulge. PO Waite appears to then unzip the bag and reach his hand inside. PO Sikora appears to grab and then hold onto § 87(2)(b) right arm. At 00:56 minutes PO Waite begins grabbing § 87(2)(b) pant leg around his calf, moving his hand up and down the area. There does not appear to be any bulge under § 87(2)(b) pant leg.

PO Sikora's BWC video does not capture sound until 00:30 minutes, at which point PO Waite is already standing within a foot of § 87(2)(b) [BR02][BR09]. At 00:19 minutes, PO Waite can be seen exiting the officers' vehicle, walking up to within a foot of § 87(2)(b) and grabbing his arm. PO Sikora then gets out of the vehicle. At the point PO Sikora approaches § 87(2)(b) PO Waite has already asked him about his vest and grabbed him. Between 00:30 and 00:59 minutes, § 87(2)(b) raises his hand up above his shoulder, and PO Sikora brings § 87(2)(b) arm down, with what appears to be little to no resistance from § 87(2)(b) PO Sikora instructs § 87(2)(b) to stop moving around. § 87(2)(b) begins raising his arms again, so PO Sikora places his hands on § 87(2)(b) upper arms to guide them back down. At 00:43 minutes, PO Waite can be seen with his hand inside of § 87(2)(b) bag.

In New York v. Hollman, 79 N.Y.2d 181 [BR10], the court clarified the difference between the first two tiers of the four-tiered method for evaluating police encounters as established by People v De Bour (40NY2d 210, 223). The court stated, "We conclude, as a general matter, that a request for information involves basic, nonthreatening questions regarding, for instance, identity, address or destination. As we stated in De Bour, these questions need be supported only by an objective credible reason not necessarily indicative of criminality. Once the officer asks more pointed questions that would lead the person approached reasonably to believe that he or she is suspected of some wrongdoing and is the focus of the officer's investigation, the officer is no longer merely seeking information. This has become a common-law inquiry that must be supported by a founded suspicion that criminality is afoot."

According to NY Penal Law § 270.20 (2020) [BR11], "A person is guilty of the unlawful wearing of a body vest when acting either alone or with one or more other persons he commits any violent felony offense defined in section 70.02 while possessing a firearm, rifle or shotgun and in the course of and in furtherance of such crime he wears a body vest."

According to Patrol Guide Procedure 221-01[BR12], when a member of service utilizes force, they should "use only the reasonable force necessary to gain control or custody of a subject." This procedure further states, "In determining whether the use of force is reasonable, members of the service should consider the following: the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject's violent history, if known, presence of hostile crowd or agitators, subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence."

In People v. De Bour, 40 N.Y.2d 210 [BR13], the court established a four-tiered method for evaluating the lawfulness of police encounters. According to this method, an officer may only frisk a subject if they have reasonable suspicion that the subject is armed and have a fear of them being dangerous. This, however, limits the officers to frisk the specific area where they believe the subject is carrying said weapon. If officers have probable cause, in other words a cautious person would believe the civilian is guilty of a crime, officers may detain and search the subject.

PO Waite and PO Sikora both stated that they did not have familiarity with § 87(2)(b) and the

reason for approaching him was that they believed he was wearing a bulletproof vest. Upon approaching § 87(2)(b) PO Waite asked him if he was wearing a bulletproof vest. Wearing a bulletproof vest is illegal in New York City if someone is committing a violent felony. Hence, this question would rise to a level two encounter, as it would lead the person approached reasonably to believe that he or she is suspected of some wrongdoing and is the focus of the officer's investigation. § 87(2)(g)

When § 87(2)(b) turned to show PO Waite his vest while answering his question, PO Waite grabbed § 87(2)(b) raising the encounter to a stop. § 87(2)(g)

Video evidence shows that after PO Waite grabbed § 87(2)(b) bag, § 87(2)(b) kept moving his arms around even after PO Sikora instructs him to stop moving them. § 87(2)(g)

PO Waite stated that he had no recollection of the incident and does not know why he would have searched § 87(2)(b). In the Stop Report, PO Waite stated that no search occurred during the incident. Video evidence shows PO Waite sticking his hand into § 87(2)(b) bag. Furthermore, the stop report also states that PO Waite conducted a frisk due to the presence of a heavy L-shaped bulge on § 87(2)(b) person. When shown his own BWC video, PO Waite stated that he appears to frisk the outside of § 87(2)(b) bag as well as § 87(2)(b) leg. PO Waite stated that he did not

know why he frisked those areas, but that he must have seen something there. PO Waite did not know where on § 87(2)(b) the bulge was observed. § 87(2)(g)

The angle of the BWC video received by the investigation did not capture what PO Waite did with his hand on the inside of § 87(2)(b) bag. PO Waite and PO Sikora both stated that they did not recall any officer breaking § 87(2)(b) cigarettes. § 87(2)(g)

Allegation (G) Abuse of Authority: Police Officer John Sikora failed to provide § 87(2)(b) with a business card.

Allegation (H) Abuse of Authority: Police Officer Anthony Waite failed to provide § 87(2)(b) with a business card.

Allegation (I) Abuse of Authority: Police Officer Anthony Waite refused to provide his name to § 87(2)(b)

Allegation (J) Abuse of Authority: Police Officer Anthony Waite refused to provide his shield number to § 87(2)(b)

Allegation (K) Abuse of Authority: Police Officer John Sikora refused to provide his name to § 87(2)(b)

Allegation (L) Abuse of Authority: Police Officer John Sikora refused to provide his shield number to § 87(2)(b)

In his interview, § 87(2)(b) stated that after PO Sikora searched his bag, he asked the officers for their names, shield numbers, and business cards. PO Waite and PO Sikora rushed back to their vehicle and drove away without providing any of the information.

PO Waite stated that whenever a civilian is stopped, an officer should offer their business card [BR04]. PO Waite stated that he always carries and offers a business card when stopping a civilian and that if he runs out of business cards, he offers to write down his name and shield number. He had no recollection of whether he gave § 87(2)(b) a business card or not. PO Waite stated that he would have provided § 87(2)(b) with his name and shield number at the beginning of the stop when he identified himself as a police officer. PO Waite stated that if asked, he would provide his name and shield number a second time.

PO Sikora stated that if he has the opportunity to, he always identifies himself when approaching and speaking to civilians [BR07]. PO Sikora stated that since it has been required, he has always provided civilians with his business card when he stops them. PO Sikora stated that if he runs out of business cards and a civilian asks for one, he tells them that he does not have one or he gives them his name and shield number. PO Sikora could not recall if he provided § 87(2)(b) with a business card.

PO Sikora's first BWC video ends with § 87(2)(b) requesting business cards from the officers and has a time stamp of 12:08:05 PM [BR02]. At the beginning of PO Sikora's second BWC video, he and PO Waite can be seen walking back towards their vehicle. The time stamp at the beginning of this video is 12:08:07 PM, two seconds after his first video ended. In neither video do PO Waite or PO Sikora provide § 87(2)(b) with a business card. In PO Sikora's second video at 00:20 seconds, PO Sikora can be heard telling § 87(2)(b) his name and shield number. PO Sikora then tells § 87(2)(b) to step away from the car. § 87(2)(b) tells PO Sikora he cannot just leave. The two officers then drive away.

PO Waite's BWC video does not depict him or PO Sikora providing § 87(2)(b) with a business card.

According to NYC Administrative Code § 14-174 Identification of Police Officers subdivision b [BR14], "During a law enforcement activity, an officer shall: 1. Identify himself or herself to the person who is the subject of such law enforcement activity by providing his or her name, rank and command; 2. Provide to such person an explanation of the reason for such law enforcement activity, unless providing such information would impair a criminal investigation; 3. Offer a business card to such person at the conclusion of any such activity that does not result in an arrest or summons..." Furthermore, it states that if an officer does not have an adequate number of business cards to provide one to a civilian, they shall either provide a handwritten card with the information, or provide the information verbally, giving the civilian a sufficient amount of time to record it themselves.

Video evidence captures § 87(2)(b) asking PO Waite and PO Sikora for business cards as the two officers turn and walk away. There is then a two second gap between videos after which neither officer is shown providing business cards to § 87(2)(b). It is unreasonable to assume either officer could have provided § 87(2)(b) with their business cards in two seconds. In their testimonies, PO Waite and PO Sikora stated that they do not have an independent recollection of this incident, nor of providing § 87(2)(b) with a business card. In one video, PO Sikora can be heard reading his shield number aloud, however he drives away immediately after providing the number while § 87(2)(b) is telling the officers they cannot just leave. In other words, even if PO Sikora did not have

business cards on him and was providing his name and shield number verbally to § 87(2)(b) he did not give him sufficient time to record the information. § 87(2)(g)

At the beginning of both officers' BWC video, there is a delay in the capturing of audio. Without this audio, the investigation is unable to determine beyond a preponderance of the evidence whether § 87(2)(b) ever asked the officers for their names and shield numbers after requesting their business cards. In one of PO Sikora's BWC recordings [BR02], PO Sikora is captured reading his name and shield number aloud to § 87(2)(b) showing that if he was asked for this information, he provided it verbally. § 87(2)(g)

Allegation (M) Untruthful Statement: Police Officer Anthony Waite provided a false official statement to the CCRB.

PO Waite prepared a Stop Report for this incident on which he indicates that § 87(2)(b) was not searched, and that officers offered to provide business cards to § 87(2)(b)

PO Waite's BWC video shows him pressing on the outside of § 87(2)(b) bag at 00:38 minutes. PO Waite then appears to unzip the bag and reach his hand inside [BR01]. At 00:43 minutes, PO Sikora's first BWC video depicts PO Waite reaching his hand inside of § 87(2)(b) bag and moving it around inside. PO Sikora's first BWC video ends with § 87(2)(b) requesting business cards from the officers and has a time stamp of 12:08:05 PM [BR02]. At the beginning of PO Sikora's second BWC video, he and PO Waite can be seen walking back towards their vehicle. The time stamp at the beginning of this video is 12:08:07 PM, two seconds after his first video ended [BR02]. In neither video does PO Waite or PO Sikora provide § 87(2)(b) with a business card.

In PO Waite's first interview [BR04], he stated that it did not appear like he searched § 87(2)(b) bag, and that it looks like he only frisked the outside of it. PO Waite also stated he did not have an independent recollection of preparing the Stop Report. During PO Waite's second interview [BR05], PO Waite's and PO Sikora's BWC videos were played, showing PO Waite reaching into § 87(2)(b) bag. PO Waite stated that he did not have an independent recollection of the incident and did not know whether he searched § 87(2)(b) or not. PO Waite was played PO Sikora's first and second BWC videos. He stated that while the footage might not depict them providing business cards to § 87(2)(b) that on the stop report he only indicated that the cards were offered. PO Waite did not have an independent recollection of offering or providing § 87(2)(b) with a business card, but stated that § 87(2)(b) might not have accepted them, and that the officers were not going to wait around while he was being combative.

According to Patrol Guide Procedure 203-08 Making False Statements [BR15], "The intentional making of a false official statement is prohibited, and will be subject to disciplinary action, up to and including dismissal. Intentionally making a false official statement regarding a material matter will result in dismissal from the Department, absent exceptional circumstances. Exceptional circumstances will be determined by the Police Commissioner on a case-by-case basis. Examples of circumstances in which false statements may arise include, but are not limited to, lying under oath during a civil, administrative, or criminal proceeding or in a sworn document; lying during an official Department interview conducted pursuant to Patrol Guide 206-13, "Interrogation of Members of the Service" or an interview pursuant to Patrol Guide 211-14, "Investigations by Civilian Complaint Review Board;" and lying in an official Department document or report."

On the Stop Report PO Waite prepared, he indicated that § 87(2)(b) was not searched and that

officers offered him business cards. Video evidence depicts PO Waite reaching his hand into § 87(2)(b) bag, which constitutes a search. Video evidence also captures § 87(2)(b) actively requesting business cards and then not receiving them. At no point in the video are the officers captured offering § 87(2)(b) business cards. PO Waite denied seeing himself reaching into § 87(2)(b) bag in BWC video and claimed the officers did in fact offer § 87(2)(b) business cards, even if the audio is not captured. The Stop Report prepared by PO Waite is an official Department report and hence constitutes a statement, and would also be considered material, as it directly relates to the actions taken by PO Sikora and PO Waite during their stop of § 87(2)(b).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Sikora has been a member of service for eight years and has been a subject in 11 CCRB complaints and 28 allegations, none of which were substantiated. § 87(2)(g)
- PO Waite has been a member of service for five years and has been a subject in 15 CCRB complaints and 71 allegations, of which four were substantiated:
 - 201907678 involved substantiated allegations of Abuse - Failure to provide RTKA card against PO Waite. The Board recommended Command Discipline A, and the NYPD has not yet imposed discipline.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of July 14, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint [BR16].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 8

Investigator: Aaron Gibbings Inv. Aaron Gibbings 08/26/2021
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 8/26/2021
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date